

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

NELSON LUCK,)
)
Plaintiff)
) Case No. 4:04cv00054
v.)
)
JO ANNE B. BARNHART,)
Commissioner of Social Security,)
)
Defendant)

ORDER

On August 17, 2004, the Court entered an order referring this case to the Honorable B. Waugh Crigler, United States Magistrate Judge, for proposed findings of fact and recommended disposition. The magistrate judge filed his report and recommendation on June 28, 2005. After reviewing the record in this case and no objections having been filed to the magistrate judge's report and recommendation within ten (10) days of its service upon the parties, this Court adopts the magistrate judge's report in its entirety. Accordingly, it is this day ADJUDGED and ORDERED as follows:

1. The report and recommendation of the United States Magistrate Judge, filed June 28, 2005, shall be, and hereby is, **ADOPTED** in its entirety.
2. For the reasons stated in the magistrate judge's report, the commissioner's final decision is **REVERSED** and the case is **REMANDED** for the sole purpose of calculating and paying proper benefits.

3. The clerk is directed to strike this case from the active docket of this Court and to send certified copies of this Order to all counsel of record and to Magistrate Judge Crigler.

ENTERED this 2nd day of August, 2005.

s/Jackson L. Kiser

Senior United States District Judge